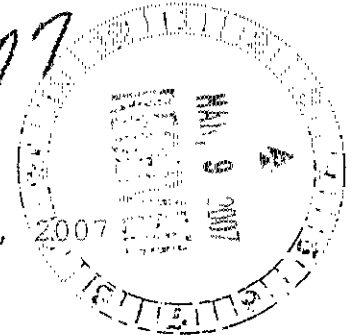


JOHN D. HEFFNER, PLLC  
1920 N STREET, N.W.  
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WASHINGTON, D.C. 20036  
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FAX (202) 296-3939  
j.heffner@verizon.net

ORIGINAL

218777  
March 9, 2007



Honorable Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

RE: STB Finance Docket No. 34992, Itasca County Regional Rail  
Authority - Construction of a Line of Railroad in Itasca  
County, MN, Petition for Exemption

Dear Mr. Williams:

Pursuant to 49 U.S.C. 10502, I am submitting on behalf of the Itasca County Regional Rail Authority, an original and ten copies of a Petition for Exemption from the provisions of 49 U.S.C. 10901 for construction of a new line of railroad in Itasca County, MN. Along with the Petition, I am enclosing a filing fee check payable to the Board for \$62,900, a letter requesting a fee waiver, and a computer disk containing this filing in MS Word.

Please date stamp and return one copy of this filing and letter.

**FEE RECEIVED**  
MAR 9 - 2007  
SURFACE  
TRANSPORTATION BOARD

Sincerely yours,

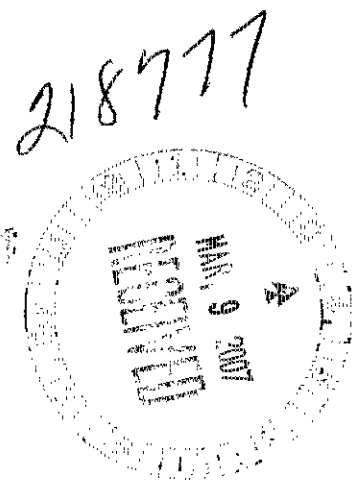
*[Signature]*  
John D. Heffner

Enclosure

cc: Mr. Ken Block, SEA  
Mr. Ronald Dicklich  
Mr. David McKenzie  
Jack Muhar, Esq.

ENTERED  
Office of Proceedings  
MAR - 9 2007  
Part of  
Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD



STB Finance Docket No. 34992  
ITASCA COUNTY REGIONAL RAIL AUTHORITY  
-- CONSTRUCTION OF A LINE OF RAILROAD --  
IN ITASCA COUNTY, MN

PETITION FOR EXEMPTION  
UNDER 49 U.S.C. 10502

**FEE RECEIVED**

MAR 9 - 2007

ENTERED  
Office of Proceedings

MAR - 9 2007

Part of  
Public Record

SURFACE  
TRANSPORTATION BOARD

Respectfully submitted,

John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
Telephone: (202) 263-4180

Counsel for Petitioner

**FILED**

MAR 9 - 2007

SURFACE  
TRANSPORTATION BOARD

DATED: March 9, 2007

BEFORE THE  
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34992  
ITASCA COUNTY REGIONAL RAIL AUTHORITY  
-- CONSTRUCTION OF A LINE OF RAILROAD --  
IN ITASCA COUNTY, MN

PETITION FOR EXEMPTION  
UNDER 49 U.S.C. 10502

I. INTRODUCTION

Pursuant to 49 U.S.C. 10502, the Itasca County Regional Rail Authority ("Itasca" or "Petitioner"), a political subdivision and noncarrier, seeks an exemption from 49 U.S.C. 10901 permitting it to construct a new line of railroad (hereafter "the Line"). Once constructed, the Line will extend approximately 9 miles<sup>1</sup> from a connection with an existing rail line at Taconite, MN, to the site of a new steel mill to be built by Minnesota Steel Industries LLC ("Minnesota Steel") at Nashwauk, MN, all located in Itasca County. Itasca intends to enter into a contract with an existing, experienced short line railroad to provide common carrier rail service over the Line to

---

<sup>1</sup> As of the present time there are no mileposts.

all present and future customers. The purpose of the proposed construction is to enable Itasca's short line railroad to provide service to the steel mill and any other customers that choose to locate on the Line. A series of maps depicting the Line and its relationship to rivers, highways, and other railroad lines in the area are attached hereto as Exhibits A-C.

In support of its proposal, Petitioner submits as Exhibit D the Verified Statement of its Project Coordinator Ronald Dicklich (hereafter "Dicklich VS") and as Exhibit E a support letter from Minnesota Steel, the major new shipper.

The exemption would be subject to completion of an environmental review by the Board's Section of Environmental Analysis ("SEA"). For the reasons stated herein, Petitioner seeks expedited consideration with a decision requested by December 31, 2007.

## II. FACTUAL BACKGROUND

Petitioner is a regional rail authority and political subdivision established in Itasca County under Minnesota law for the purpose of owning, constructing, and operating railroads in Itasca County. Minnesota Statutes 2006, chapter 398A. Itasca County is a rural area in need of economic development in the "Iron Range" area of northern Minnesota located approximately 80 miles northwest of Duluth and approximately 205 miles northwest of Minneapolis. With the county seat located at Grand Rapids, MN, Itasca County has a population of approximately 44,000

people. Itasca County's principal economic activities consist of logging, pulp, paper, iron mining, farming, and tourism. Itasca is a noncarrier because it does not currently own or operate any rail lines or facilities of any type. Dicklich VS at para. 3.

Itasca seeks to build this rail line to attract new industry to the area. Dicklich VS at para. 5. In that connection Minnesota Steel has decided to locate a new steel mill along the proposed Line in the county at Nashwauk due to its proximity to taconite deposits. See, Minnesota Steel letter; Ex E. Itasca hopes and believes that this facility will serve as a magnet to attract other industrial concerns that would likely use rail. The steel mill site is identified as being within an industrial corridor of Itasca County. Itasca does not intend to operate the Line itself. Dicklich VS at para. 6.

As noted above, Itasca will contract out operation of the Line to a qualified common carrier class III short line railroad. Id. Itasca had issued an RFP to solicit operating proposals from prospective short line railroad operators and has selected two finalists from the list of bidders. Itasca anticipates negotiating an operating agreement with one of these two carriers but will, as owner of the Line, retain a residual common carrier obligation. Id.

As evidence of public need, Petitioner submits a letter of support from Minnesota Steel describing the proposed plant and its need for rail service. See, Minnesota Steel letter, Ex. E. It anticipates that local government officials may submit additional letters of support under separate cover. Local officials are excited about the industrial development prospects the rail line brings to the area, both for Minnesota Steel and for industrial development generally in this sparsely populated area. Local planners see rail service as the key to industrial development. Dicklich VS at para. 7.

### III. A DESCRIPTION OF THE PROPOSED LINE AND PLANNED OPERATIONS

The subject rail line would begin at Taconite, MN, at the intersection of the Line with an existing railroad line that extends between Grand Rapids and Forbes, MN, via Hibbing. This line is owned in part by BNSF Railway, Inc. ("BNSF") and in part by the Canadian National Railway Company ("CN"), with both carriers operating over the line. Itasca and its short line operator will have access to both class I railroads. Dicklich VS at 8.

Petitioners will be considering several alternative right of way alignments including some utilizing railroad rights of way that were abandoned years ago. The right of way alignments will diverge from the BNSF/CN line in a northwesterly direction

with a "wye" track connection to the BNSF/CN line facing in an easterly direction (towards Hibbing). The right of way alignments will proceed over land that is generally flat towards the Minnesota Steel plant site. The right of way alignments will generally be at least 100 feet wide. On the west end (facing towards the BNSF/CN connection) the right of way will be wide enough to accommodate at least three long interchange and storage tracks. Heading northeast towards Nashwauk, those tracks will converge to form a single track line to the Minnesota Steel which will have a small rail yard inside its facility. The right of way alignments will be built on land owned in large part by Minnesota Steel. The proposed right of way alignments will traverse an area of abandoned iron ore mines, overburden piles, and tailings basin. There will be no crossings of any public highways and no crossings of other railroads. Itasca anticipates that the Line will have five private crossings. The Line will not cross any nonnavigable waterways. It is currently unknown whether there are any animal or plant species potentially affected by this project. To the best of Petitioner's knowledge the proposed right of way alignments do not traverse any ancient Indian burial grounds, archeological sites, unique land forms, or federally owned lands. Dicklich VS at 8.

Regarding environmental impacts, Petitioner believes this project will be very beneficial. In response to these inquiries, Itasca anticipates that the environmental effects of its proposed construction project will be minimal. The subject area is an attainment area. Based on information supplied by Minnesota Steel, Itasca anticipates that the line would handle about 30,000 carloads and three million tons annually. Itasca's designated short line railroad will move this traffic utilizing one train making a single daily roundtrip, at 70-90 carloads per trip, 7 days per week. Commodities handled will include inbound miscellaneous chemicals and outbound steel slabs and taconite pellets. See, Minnesota Steel letter, Ex. E. This traffic represents new business, which, but for the railroad, would move by truck over local roads. Itasca believes that the utilization of rail instead of truck will promote energy conservation and reduce air and noise pollution. Furthermore, local officials believe that use of rail will improve highway safety and reduce traffic congestion. The principal area highways, specifically Highways 169 and 65, could not handle the additional truck traffic that the Minnesota Steel plant will generate. Diclich VS at para. 9.



IV.

ARGUMENT

A GRANT OF THIS EXEMPTION IS REQUIRED

Petitioner seeks an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10901 to permit it to construct approximately nine miles of new railroad to serve the Minnesota Steel plant. As pertinent, §10901(a) provides that a person may construct an extension to any of its rail lines or construct an additional railroad line only if the Board issues a certificate authorizing such construction. Furthermore, the 1995 revision to §10901(c) directs the Board to issue a certificate authorizing construction unless it finds that such construction would be inconsistent with the public convenience and necessity. Board precedent establishes a clear presumption favoring [emphasis supplied] construction proposals. Midwest Generation, LLC - Exemption From 49 U.S.C. 10901 - For Construction in Will County, IL, STB Finance Docket No. 34060, slip op. at 7-8 (served March 21, 2002).

Moreover, while the proposed construction would be subject to approval under the formal requirements of 49 U.S.C. 10901 and the related regulations, the Board has generally allowed smaller construction proposals such as that here to utilize the individual exemption procedures of 49 U.S.C. 10502 to obtain

approval. Under §10502(a), Congress intended for the Board, in a matter related to a rail carrier providing rail transportation subject to its jurisdiction, to exempt a person, class of persons, transaction or service whenever it finds that the application of a provision of this subtitle - (1) is not necessary to carry out the transportation policy of §10101a of this title; and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

The legislative history behind §10505 [the predecessor section to the current §10502] makes clear Congress' intent that the Interstate Commerce Commission and [now the Board] use its exemption authority liberally to free certain transactions and services from the administrative and financial costs associated with continued regulation. In discussing the exemption powers of the Board's predecessor -- the ICC -- the Staggers Act legislative history states:

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete

exemptions from remaining regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed construction from §10901 is exactly the type of minor transaction Congress contemplated when it enacted §10502. The transaction proposed here falls squarely within the four corners of §10502 and its predecessor statute. Indeed, with the enactment of the ICC Termination Act of 1995, Board policy clearly favors the approval of short railroad construction projects by exemption. See, e.g., Ellis County Rural Rail Transportation District -- Construction and Operation Exemption -- Ellis County, TX, STB Finance Docket No. 33731, (served Feb. 15, 2000) (hereafter Ellis County); Pemiscot County Port Authority - Construction of a Line of Railroad - In Pemiscot County, MO, STB Finance Docket No. 34117 (served July 2, 2002) (hereafter Pemiscot); and Southwest Gulf Railroad Company - Construction And Operation Exemption - Medina County, TX, STB Finance Docket No. 34284 (served May 19, 2003) (hereafter Southwest).

A. Application of §10901 is Not Necessary to Further National Transportation Policy

Requiring Petitioner to comply with the formal requirements of §10901 is not necessary to carry out the transportation

policy of 49 U.S.C. 10101a. That section, originally added to the Act by the Staggers Rail Act amendments and incorporated into the ICC Termination Act, represents Congress' most recent expression of rail transportation policy. Of these, a grant of the petition would satisfy subsections (2) and (7) by minimizing federal regulatory control over and granting expedited consideration of Petitioner's request to construct a short nine mile long rail line. It would also satisfy subsections (4) and (5), by providing a shipper lacking direct rail access the option of rail transportation, ensuring the development of a sound transportation system with effective competition and coordination between railroads and other transportation modes, and fostering sound economic conditions in the transportation industry. See, e.g., Ellis County and Southwest, supra; and Alamo North Texas Railroad Corporation-Construction and Operation Exemption-Wise County, STB Finance Docket No. 34002 (served Nov. 8, 2001) (hereafter Alamo). Of particular significance to Itasca County, a grant of this exemption would promote transportation safety by removing numerous trucks from area highways, thereby enhancing highway safety. Finally, a grant of this exemption would satisfy subsection(14) by promoting energy conservation through increased use of energy efficient rail transportation.

B. The Transaction Is One of Limited Scope

The transaction unquestionably satisfies the limited scope test of §10502(a). The proposed trackage is but nine miles long, located in a very sparsely populated section of Minnesota.

The Line would initially serve one major customer, Minnesota Steel, as well as such other customers that may locate on the line in the future. Petitioner believes the Line will handle about 30,000 carloads of freight annually after construction. By any measurement the Board chooses to use, this construction proposal is clearly limited in scope within the meaning of 49 U.S.C. 10502(a)(2)(A). A finding to that effect would be consistent with -- and is indeed required by -- the relevant facts of this case and relevant precedent. See, e.g., Ellis County, supra (4.8 miles of new construction), Pemiscot, supra (5 miles), Alamo, supra (2.25 miles), and Southwest, supra (7 miles).

C. Application of §10901 is Not Necessary  
to Protect Shippers from Abuse of Market Power

Because this transaction satisfies the limited scope test of §10502(a), Petitioner does not need to show that it also meets the alternative test that there is no opportunity to expose shippers to abuse of market power. But even if the limited scope test were not satisfied, the exemption sought herein would still be warranted by virtue of §10502(a)(2)(B) inasmuch as the subject railroad will offer an additional form of modal competition to the shippers. See, Alamo and Southwest, supra. In fact, this case is similar to both Alamo and Southwest because all three cases involve proposals to construct new rail lines to provide direct rail service to shippers that would otherwise be dependent solely on truck or truck/rail

transload service for their transportation needs. Moreover, this case involves facts similar to those in Ellis where the Board authorized a county rural rail transportation district in Texas to construct a short (4.8 mile) rail line to connect an industrial park already served by BNSF with a line of the Union Pacific Railroad.

V. EXPEDITED HANDLING REQUESTED

Petitioner Itasca requests that the Board expeditiously consider and grant its proposal. Any unreasonable delay could adversely affect its ability to provide rail service for the Minnesota Steel plant. Dicklich VS at para. 10; Minnesota Steel letter, Ex. E. In support thereof, Minnesota Steel has informed Petitioner that it needs to have rail service available by June 1, 2009, when it expects to begin generating outbound freight. Accordingly, Petitioner requests that the Board grant its petition for exemption effective on or before December 31, 2007, so that it can complete construction of the Line by June 1, 2009. Id.

Itasca has reviewed other fairly straight forward construction proposals such as those filed in Ellis County, Pemiscot, Alamo, and Southwest, and found that the time required from the date of filing the petition to the date of the final decision ran between 6 and 16 months. Itasca has no reason to believe that the Board would require substantially more time here.

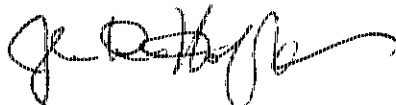
In anticipation of filing this Petition, Itasca has worked diligently to 1) obtain a waiver of the six months prefiling

notice which was granted by the Board's Section of Environmental Analysis (SEA) in a letter dated February 12, 2007, 2) engage the Kansas City-based environmental consulting firm of Burns and McDonnell as its third party environmental consultant, 3) have the SEA approve the engagement of Burns & McDonnell which it did on February 12, 2007, and 4) obtain the support of County officials and local community leaders. Itasca commits to giving both Burns & McDonnell and the SEA its full cooperation to allow them to move this project along as quickly as possible.

#### VI. CONCLUSION

Accordingly, the Itasca County Regional Rail Authority requests that the Board expeditiously grant it an exemption from the provisions of 49 U.S.C. 10901 to permit it to construct a new line of railroad. That line will run from the connection with an existing rail line of BNSF Railway, Inc., and Canadian National Railway at Taconite, MN, to the site of a new steel mill to be built by Minnesota Steel at Nashwauk, MN, a distance of approximately nine miles located in Itasca County.

Respectfully submitted,



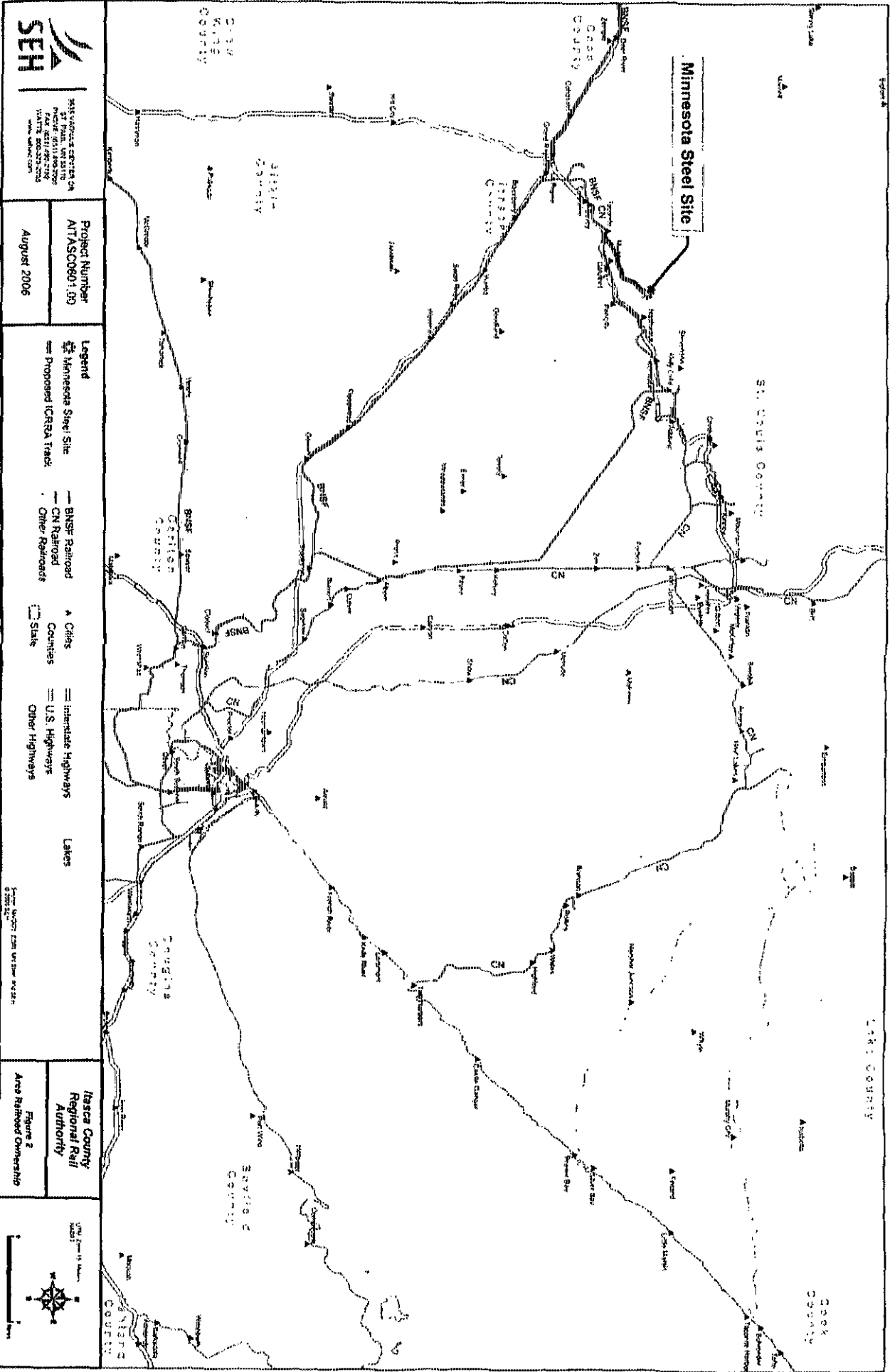
John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
Telephone: (202) 263-4180

Counsel for Petitioner

DATED: March 9, 2007

# **EXHIBIT A**





3035 W. 12th Street, Suite 200  
 St. Paul, MN 55108  
 Phone: (612) 480-2700  
 Fax: (612) 480-2700  
 Email: info@seh.com  
 Website: www.seh.com

**Project Number**  
 AITASC0801.00

**August 2006**

**Legend**

Minnesota Steel Site

Proposed CORRA Track

BNSF Railroad

CN Railroad

Other Railroads

Cities

Counties

State

Interstate Highways

U.S. Highways

Other Highways

Lakes

Scale: 1 inch = 1 mile

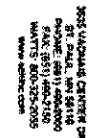
**Isasca County Regional Rail Authority**

Figure 2

Area Railroad Ownership



## **EXHIBIT B**



**Grand Rapids**

# Minnesota Steel

## Plant Tracks

## Storage Yarn

## Interchange Yard

**Itasca County Public Infrastructure  
Infrastructure Program:  
Minnesota Steel**

Project Number  
AITASCD501.00

**August 2008**

**1-800-255-7744**

- MS Plant Layout
- MS Road Alignment
- MS Road Alignment - Option 1
- MS Road Alignment - Option 2
- MS Sewer and Water
- Proposed Gas Alignment

### IDENTITY EXPANSION

U.S. 163

- Existing Roads
- 1 - Existing Railroads

### - 1 - Existing Railroad

## Geographische Notizen

### Administrative Structure

**State Park Statutory Boundary**

### **Additional Information:**

**Boeing Ligh-18N Model, Space Capacity 6000 lbs. 1970's and 80's**

**Hasco County  
Regional Rail  
Authority**

**Figure 1**  
**Public infrastructure**



**James County - Road  
Challenges Summary**

# **EXHIBIT C**



3200 VANDERBILT CENTER DR.  
FALLS CHURCH, VA 22044  
TEL: (703) 441-5500  
FAX: (703) 441-5501  
WWW.SEH.COM

Project Number  
ATASCC0601.00

August 2006

#### Legend

Proposed Rail  
Proposed Roads

Existing Roads  
Existing Railroads

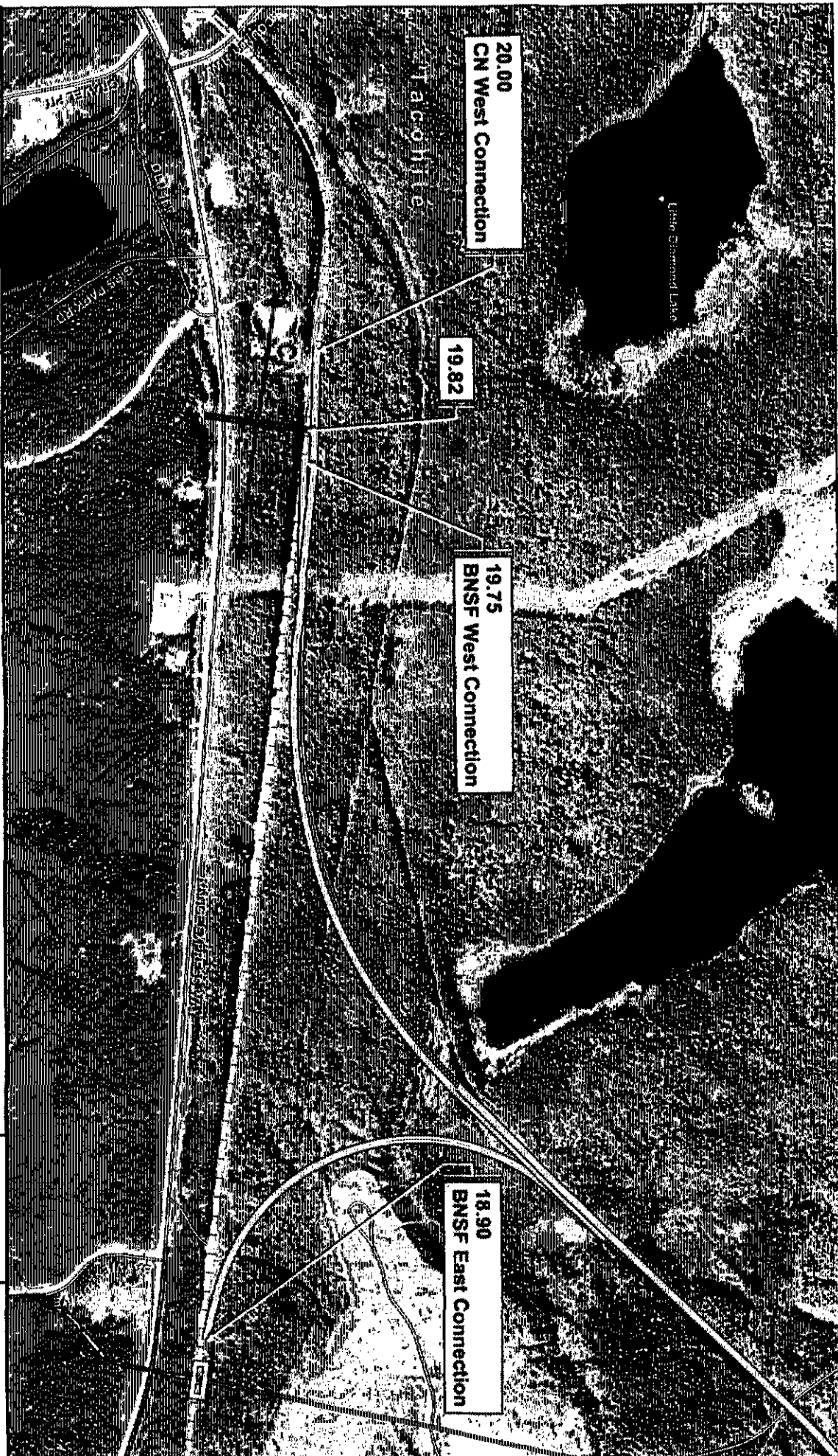
Geographic Names  
Municipal Boundaries  
Civil Township Boundaries

Streams

Itasca County  
Regional Rail  
Authority

Figure 3  
Railroad Connections

North Arrow



## **EXHIBIT D**

EXHIBIT D

VERIFIED STATEMENT OF  
RON DICKLICH

Ron Dicklich, being duly sworn, deposes and states as follows:

1. My name is Ron Dicklich. My office address is P.O. Box 705, Buhl, MN 55713. I am an independent consultant employed on a variety of projects by Itasca County and other municipal governments and political subdivisions in northern Minnesota. Currently, I have been engaged by the Itasca County Regional Rail Authority ("Itasca") to serve as Project Coordinator for Itasca's railroad construction project that is the subject of this petition with the Surface Transportation Board (STB). As relevant here, I have over 17 years of experience with a variety of state and local government industrial and economic development projects. Prior to that, I served as a member of the Minnesota State Senate representing a district in northern Minnesota.

2. In my role with Itasca, I am the individual with the day to day responsibility for developing the industrial site in the county that is the subject of this petition. I was deeply involved in the discussions, negotiations, and arrangements with Minnesota Steel about locating their plant in Itasca County. Planning for this project included making necessary arrangements for utilities and transportation to serve the plant. With the vast majority of the plant's traffic moving by rail, those arrangements included the need to build and operate a new rail line connecting with an existing rail line and corporate manager responsible for the permitting, design, construction management, and start up of rail service on the proposed new rail line.
3. Itasca is a regional rail authority and political subdivision established in Itasca County under Minnesota law for the purpose of owning, constructing, and operating railroads in Itasca County. Minnesota Statutes 2006, chapter 398A. Itasca County is a rural area in need of economic development in the "Iron Range" area of northern Minnesota located approximately 80 miles



northwest of Duluth and approximately 205 miles northwest of Minneapolis. With the county seat located at Grand Rapids, MN, Itasca County has a population of approximately 44,000 people.

Itasca County's principal economic activities consist of logging, pulp, paper, iron mining, farming, and tourism. I am advised that Itasca is a "noncarrier" for STB regulatory purposes because it does not currently own or operate any rail lines or facilities of any type.

4. As relevant, Itasca County is presently traversed by an existing railroad line that extends between Grand Rapids and Forbes, MN, via Hibbing. This line is owned in part by BNSF Railway, Inc. ("BNSF") and in part by the Canadian National Railway Company ("CN"), with both carriers operating over the line. The proposed rail line will connect with the joint BNSF/CN line at a point east of Grand Rapids known as Taconite.
5. Itasca seeks to build this rail line to attract new industry to the area. In that connection Minnesota Steel has decided to locate a new steel mill along the proposed line in the county at Nashwauk due to its proximity to taconite

deposits. Itasca hopes and believes that this facility will serve as a magnet to attract other industrial concerns that would likely use rail. The steel mill site is identified as being within an industrial corridor of Itasca County.

6. Rather than operate the Line itself, Itasca will contract out the operation to a qualified common carrier class III short line railroad. However, as the owner of the Line, it is my understanding that Itasca will retain what the STB calls a "residual common carrier obligation" with respect to the Line. Itasca had issued an RFP to solicit operating proposals from prospective short line railroad operators and has selected two finalists from the list of bidders. Itasca anticipates negotiating an operating agreement with one of these two carriers during the coming months.
7. As evidence of public need, Itasca submits with its Petition a letter of support from Howard W. Hilshorst, Executive Vice President for Minnesota Steel, describing the proposed plant and its need for rail service. Itasca anticipates that local government officials may submit additional letters of support under separate cover. Local

officials are excited about the industrial development prospects the rail line brings to the area, both for Minnesota Steel and for industrial development generally in this sparsely populated area. Local planners see rail service as the key to industrial development.

8. As note above, the subject rail line will begin at Taconite, MN, at the connection of the Line to the existing BNSF/CN rail line between Grand Rapids and Forbes, MN, via Hibbing. Itasca and its short line operator will have access to both class I railroads. Itasca's consultants will be considering several alternative right of way alignments including some utilizing railroad rights of way that were abandoned years ago. The right of way alignments will diverge from the BNSF/CN line in a northwesterly direction with a "wye" track connection to the BNSF/CN line facing in an easterly direction (towards Hibbing). The right of way alignments will proceed over land that is generally flat towards the Minnesota Steel plant site. The right of way alignments will generally be at least 100 feet wide. On the west end (facing towards the BNSF/CN connection)

the right of way will be wide enough to accommodate at least three long interchange and storage tracks. Heading northeast towards Nashwauk, those tracks will converge to form a single track line to the Minnesota Steel which will have a small rail yard inside its facility. The right of way alignments will be built on land owned in large part by Minnesota Steel. The proposed right of way alignments will traverse an area of abandoned iron ore mines, overburden piles, and tailings basin. There will be no crossings of any public highways and no crossings of other railroads. Itasca anticipates that the Line will have five private crossings. The Line will not cross any nonnavigable waterways. It is currently unknown whether there are any animal or plant species potentially affected by this project. To the best of my knowledge the proposed right of way alignments do not traverse any ancient Indian burial grounds, archeological sites, unique land forms, or federally owned lands.

9. The traffic generated by Minnesota Steel and those other shippers who choose to locate on the

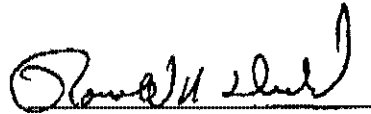
Line represent new business, which, but for the railroad, would move by truck over local roads. Itasca believes that the utilization of rail instead of truck will promote energy conservation and reduce air and noise pollution. Furthermore, local officials believe that use of rail will improve highway safety and reduce traffic congestion. The principal area highways, specifically Highways 169 and 65, could not handle the additional truck traffic that the Minnesota Steel plant will generate.

10. For the reason cited in the Petition and the accompanying letter of support furnished by Minnesota Steel, I respectfully request that the STB consider and expeditiously grant Itasca's petition by December 31, 2007, so that construction can begin promptly.

Under 28 USC 1746, the following language converts any statement into a verified statement, equivalent to a statement made under oath, and evidentiary in all federal agency proceedings otherwise requiring affidavits or other verification:

"Pursuant to 28 U.S.C. 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: 3-9-07.

A handwritten signature in dark ink, appearing to be "Donald H. [unclear]", written over a horizontal line.

[signature]

## **EXHIBIT E**



## **MINNESOTA STEEL**

Minnesota Steel Industries, LLC

**Corporate Office:**  
2550 University Avenue,  
Suite 244S  
St. Paul, Minnesota 55114  
Phone: 651-209-7707  
Fax: 651-209-6674  
stpaul@minnesotasteel.com

**Hibbing Office:**  
555 West 27<sup>th</sup> Street  
Hibbing, Minnesota 55746  
Phone: 218-263-3331  
Fax: 218-262-3460

**Marquette Office:**  
210 North Front Street  
First Floor  
Marquette, Michigan 49855  
Phone: 906-228-7960  
Fax: 906-228-2499

March 8, 2007

Honorable Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S.W.,  
Washington, DC 20423-0001

**RE: STB Finance Docket No. 34992, Itasca County Regional  
Rail Authority – Construction and Operation of a Line  
Of Railroad in Itasca County, MN**

Dear Secretary Williams:

I am writing in my capacity as Executive Vice President of Minnesota Steel Industries LLC in connection with the above-captioned proceeding. Minnesota Steel wholeheartedly supports this project and requests that the petition filed by the Itasca County Regional Rail Authority (Itasca) be granted on or before December 31, 2007.

Minnesota Steel is a newly established company incorporated in the State of Minnesota for the purpose of building and operating a vertically integrated iron mining through steel mill facility. Minnesota Steel was formed in the year 2003 by investors who own a significant portion of the ore body to be mined. As a veteran of over 30 years of experience in the mining business, Minnesota Steel has employed me to oversee the construction of and, once built, to manage this new facility.



This plant is Minnesota Steel's first fully integrated mining through steel facility. The company chose this location because of its proximity to substantial taconite reserves (1.4 billion tons). Taconite is an iron ore and is the basis of the manufacture of iron and steel.

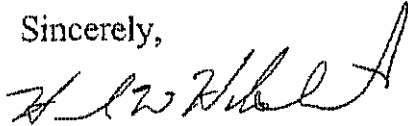
Currently, Minnesota Steel is well along in the process of planning and designing its new plant at Nashwauk, about 9 miles east of Taconite and 20 miles east of Grand Rapids, MN. Minnesota Steel has met all requirements and is currently in the final processes of obtaining all permits necessary for this project including the issuance of a favorable Environmental Impact Statement. As soon as those plans are complete (the expectation for permit issuance and financial close is early summer 2007), Minnesota Steel will clear the land at the plant site and begin plant construction. I anticipate the plant and all related facilities should be complete and ready to begin operations in early to mid 2009, at which time it will need rail service.

Because of the adjacent Taconite reserves, Minnesota Steel's plant will have very moderate need for inbound truck or rail shipments. The mill will process the taconite ore with limestone and natural gas to produce steel slabs and taconite pellets for which it will need outbound transportation. Due to the capacity of local roads as well as economic and environmental considerations, outbound traffic is best suited for rail movement. Minnesota Steel anticipates shipping about 30,000 carloads (three million tons of outbound freight) annually. Itasca's designated short line railroad will move this traffic utilizing one train making a single daily roundtrip, at 70-90 carloads per trip, 7 days per week. These products will move in interstate commerce to the Port of Duluth MN, Chicago IL, Detroit MI among other destinations. Inbound commodities handled will consist primarily of miscellaneous chemicals used in the production process. In all likelihood, these commodities will originate in Iowa, Pennsylvania, Minnesota, Illinois and other states.

I understand that Itasca County has asked the STB to expedite the handling of its Petition. Minnesota Steel is working diligently on the design and construction of this facility. It will be a major new employer in the region and a significant source of economic development generally. Once this plant is fully operational by the spring of 2009, rail service will be critical to its success. For the reasons identified in Itasca's STB filing, highway transportation is not suitable. Local roads simply can't handle the

traffic volumes that the plant will generate along with the adverse affect on the condition of area roads. Accordingly, I respectfully request that the STB promptly grant Itasca's petition.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. W. Hilshorst", written in a cursive style.

Howard W. Hilshorst  
Executive Vice President  
Minnesota Steel Industries  
218-263-3331